

Disclaimer

These minutes reflect the actions taken by the Commission during its September 14, 2012 meeting. Although these minutes have been approved by the Commission, no action authorized by the Commission during this meeting, as reflected in these minutes, shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of these minutes has been delivered to the Governor for review, unless prior to expiration of the review period the governor approves same, in which case the action shall become effective upon such approval. These minutes were delivered to the Governor on October 3, 2012.

PINELANDS COMMISSION MEETING<sup>1</sup>  
Richard J. Sullivan Center  
Terrence D. Moore Conference Room  
15 Springfield Road  
New Lisbon, New Jersey

MINUTES

**September 14, 2012**

Commissioners Present

Candace Ashmun, Sean Earlen, Leslie Ficcaglia, D'Arcy Rohan Green, Ed Lloyd, Paul E. Galletta, John A. Haas, Robert Jackson, Ed McGlinchey, Richard Prickett, and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit Liaison John Cascarano and Deputy Attorney General Kristen Heinzerling.

Commissioners Absent

Bill Brown, Gary Quinn and Fran Witt.

Chairman Lohbauer called the meeting to order at 9:37 a.m.

DAG Heinzerling read the Open Public Meetings Act Statement.

Ms. Wittenberg called the roll and announced the presence of a quorum. (There were 11 Commissioners present.)

The Commission and public in attendance pledged allegiance to the Flag.

---

<sup>1</sup> Please note that all attachments are maintained with the original minutes, but are not attached to copies. For information about attachments, please contact the office.

## Minutes

Chairman Lohbauer presented the August 10, 2012 Commission meeting minutes. Commissioner Ficcaglia moved the adoption of the minutes. Commissioner Galletta seconded the motion.

The minutes of the August 10, 2012 meeting were adopted by a vote of 10 to 0 with Commissioner Rohan Green abstaining.

## Committee Chairs' Reports

### Personnel and Budget Committee Meeting

Commissioner Haas advised that the September 4, 2012 Personnel and Budget Committee meeting was cancelled.

### Plan Review Committee

Commissioner Ashmun updated the Commission on action from the August 10, 2012 Plan Review Committee Meeting:

Executive Director Wittenberg said a press release about the Plan Review process and the upcoming hearing dates and locations had been distributed to newspapers throughout NJ, and alerts and notices had been provided to various organizations and agencies to reach as many interested parties as possible.

The next steps are to continue with public meetings and to solicit comments and suggestions, as well as continuing to post written public comments on the Commission's web page.

The Plan Review Committee had its first night meeting on August 22, 2012 at the Hamilton Municipal Building. Ten members of the public spoke.

### Policy and Implementation Committee Meeting

Chairman Lohbauer updated the Commission on action from the August 31, 2012 Policy and Implementation Committee meeting:

The Committee adopted the minutes of the July 27, 2012 meeting.

The Committee received a presentation on a proposed streamlining MOA with The Richard Stockton College of New Jersey. The presentation focused on the development footprint and associated stormwater facilities. A public hearing will be scheduled.

The Committee recommended the conditional certification of Plumsted Ordinance 2012-04, the Township's response to the three sets of CMP amendments related to cluster development, forestry and wetlands management.

The Committee received an annual update on land protection efforts in the Pinelands. Roughly 437,000 acres or 47% of the Pinelands Area has been permanently protected through Pinelands programs and other initiatives.

#### Executive Director's Reports

Ms. Nancy Wittenberg updated the Commissioners on the following:

- Significant amount of time has been spent on the Lean study. The permitting process has been chosen to be mapped and, in doing so, inefficiencies in the process will be identified. Another event will be scheduled to implement the changes.

*Commissioner Ashmun asked if the Lean study process is finding items for Plan Review to address. Ms. Wittenberg said the study is identifying more items to be considered as part of Plan Review.*

- Commission staff had a conference call with the Board of Public Utilities and New Jersey Natural Gas concerning a proposed natural gas pipeline to serve the currently coal-fired B.L. England generating plant. This will be a challenging project because there are numerous parties involved and the schedule is tight. The tentative plan is for the project to be introduced at the October P&I meeting and a draft MOA to be presented at the November P&I meeting.
- A lunch meeting took place with DEP's Assistant Commissioner for Historic and Natural Resources Rich Boornazian and Lynn Fleming to discuss forestry regulations. Conversations with DEP regarding Forestry will continue.
- Former Commissioner Rick Harris has advised Ms. Wittenberg that the new Commissioner from the National Park Service would be Joseph DiBello, not John Piltzecker as originally thought.

Mr. Chuck Horner updated the Commission on the following:

- On August 30, a letter was sent to Waterford Township in response to an inquiry sent to Executive Director Wittenberg. The letter written to Ms. Wittenberg stated that the stormwater management facility being proposed in conjunction with a warehouse was limiting development on the parcel. Commission staff found that the stormwater facility was overly designed by both CMP and Township standards. Staff identified other approaches the Township could consider to encourage future development along the White Horse Pike with regard to stormwater facilities.
- The Department of Transportation has requested a meeting with Commission staff to discuss the elimination of stormwater management swales along Route 72. In their current state, the swales present a traffic safety hazard. The swales were built in conjunction with the widening of Route 72 but were not part of the Commission's requirements.

Mr. Larry Liggett updated the Commission on the following:

- Esri, a GIS software company, presented some of its products to Commission Staff. Staff will explore which option will work best for the Commission's needs. Staff believes the software will improve our mapping capabilities both internally and externally.

- Staff recently met with the Trust for Public Land and they are interested in the Toms River Corridor.
- Commission Staff will be briefed by Dan Kennedy (Deputy Director, Office of Planning Advocacy) on the State Strategic Plan early next week.
- At the September 28 P&I meeting, staff will discuss a proposal to convert exit 44 on the Garden State Parkway into a full interchange.

Commissioner Haas commended the Southern Pine Beetle presentation given by Dr. Matt Ayres on September 5 at the Commission. He said the State's goal is to contain the beetle below the Mullica River. He would like Dr. Ayres to come to a Commission meeting to give a shortened version of the presentation. Commissioner Haas is concerned that if the Beetle migrates to the Pine Plains, the Commission will be faced with some serious decisions.

#### Public Development Projects and Other Permit Matters

Commissioner Ashmun moved the adoption of a Resolution Approving With Conditions Applications for Public Development (Application Numbers 1997-0045.008, 1997-0257.003, 2002-0399.002, 2010-0055.001 & 2011-0075.001) (See Resolution # PC4-12-30). Commissioner Ficcgaglia seconded the motion.

Ms. Susan R. Grogan provided some background information on the Parkway Overlay District as it relates to Public Development application # 1997-0257.003. In 2006 the Commission amended the CMP to establish the Parkway Overlay District. The Overlay District was created to view the Parkway as a whole and provide consistent treatment for the entire length of the Parkway. Entirely new interchanges are not permitted in the Overlay District (see slides for additional information).

Mr. Horner noted that an amended report was created for application #1997-0257.003 to include additional information regarding the Overlay District.

Mr. Horner said there is an existing State Police Barracks (Bass River) which is being abandoned and the new State Police Barracks being proposed is a permitted use.

Commissioner Galletta congratulated staff in expediting this report and said that the improvements were a must for safety.

Commissioner Ashmun had concerns over the future use of the abandoned barracks.

Mr. Horner said that any new proposal for the old Bass River State Police Barracks would require an application.

The Commission adopted the resolution by a vote of 11 to 0.

#### Resolutions Relating to Municipal Ordinances

Commissioner Haas moved the adoption of a Resolution Approving Issuing an Order to Conditionally Certify Ordinance 2012-04, Amending Chapter 15 (Zoning) of the Code of

Plumsted Township (See Resolution # PC4-12-31). Commissioner Prickett seconded the motion.

Ms. Grogan said that this Ordinance is Plumsted Township's response to the Commission's clustering and forestry amendments. There are some minor issues the Township needs to work out with regard to clustering, thus the recommendation is for a conditional approval.

The Commission adopted the resolution by a vote of 11 to 0.

#### Public Comment on Agenda Items and Pending Public Development Applications

There was no public comment offered.

#### Ordinances Not Requiring Commission Action

The following ordinances required no action:

- Tabernacle Township 2012 Master Plan Reexamination Report
- Tabernacle Township Ordinance 2012-04

#### Public Comment on Any Matter Relevant to the Commission's Statutory Responsibilities

Mr. Fred Akers of the Great Egg Harbor Watershed Association, thanked Chairman Lohbauer for questioning the mandatory clustering ordinance at the most recent P&I meeting. Mr. Akers said he was against the mandatory clustering rules because he felt that it was actually increasing development in the Rural Development and Forest Area. The sewer service area designation for the Villages coincides with clustering in that he believes it will create additional density. He would like to see the Commission show the buildout in the villages on sewer rather than buildout on septic systems.

Mr. Carleton Montgomery of Pinelands Preservation Alliance said he agreed with Mr. Akers' comments on sewer service area in the Villages. He does believe that with continued discussion between all parties an outcome can be reached with regard to the Villages and sewer. Mr. Montgomery said PPA was contacted by a Pemberton Township resident about millings taken from a resurfacing of one road and then placed on another road to create a road shoulder. The millings were further placed on a sand road in the Preservation Area. Mr. Montgomery said that his colleague Amy Karpati attended a recent Pemberton Township Committee meeting. When Ms. Karpati asked the Township Engineer about the millings, the Township Engineer responded that this work was authorized by a Memorandum of Agreement. Mr. Montgomery said this example shows that an agreement is not enough, and the Pinelands Commission needs an enforcement capacity.

#### Other

Commissioner McGlinchey asked about a consent agreement that New Jersey Department of Transportation (DOT) entered into with DEP regarding stormwater regulations.

Mr. Horner said that in June 2010 the NJDEP and NJDOT entered into an administrative consent order. He said he contacted DEP and spoke to the DAG handling the matter and Mr. Ernest Deman spoke with DOT representatives. DOT is not in compliance with the consent order or their NJDEP permit. Mr. Horner stated that funding and manpower are some of the reasons to blame.

Commissioner McGlinchey said that he finds it hard to believe that money is a problem when DOT continues to move forward with very big projects.

Commissioner Ficcaglia said that she heard they were clearing under a transmission line on Route 83. She wasn't sure if it was in the Pinelands. She will get more information and report back.

Mr. Horner said that if the tract of land is in the Pinelands, then the electric company would have to comply with the ROW Maintenance Plan.

Commissioner Jackson said he wanted to be clear that the Commission isn't opposed to enforcement powers, however they have not been offered. It would be a great tool to have but it isn't necessarily in the Commission's realm.

#### Closed Session Resolution

Commissioner Lloyd made a motion to go into closed session. Commissioner Rohan Green seconded the motion.

Ms. Roth advised that the Commission needs to discuss land acquisition issues associated with the secondary impacts of the Garden State Parkway widening MOA and Pinelands Conservation Fund matters.

Commissioner Earlen left the room and the Commission agreed to enter into closed session at 10:32 a.m.

#### Return to Open Session

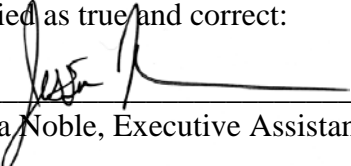
Chairman Lohbauer reopened the public portion of the meeting at 10:59 a.m.

Commissioner Prickett provided his perspective on the Pemberton Township millings matter. He said he has been on the Township Committee for 10 years and has never seen millings to this magnitude.

#### Adjournment

Commissioner Jackson moved to adjourn the meeting. Commissioner Rohan Green seconded the motion. The Commission agreed to adjourn at 11:09 a.m.

Certified as true and correct:

  
\_\_\_\_\_  
Jessica Noble, Executive Assistant

Date: \_\_\_\_ September 24, 2012